

## § 53.154

of the Department of Health and Human Services the institution of any legal action against a facility or the State agency involving compliance with the assurance.

[39 FR 31767, Aug. 30, 1974, as amended at 42 FR 16780, Mar. 30, 1977]

### Subpart M [Reserved]

### Subpart N—Loan Guarantees and Direct Loans

#### § 53.154 Waiver of right of recovery.

In determining whether there is good cause for waiver of any right of recovery which he may have against a non-profit private agency by reason of any payments made pursuant to a loan guarantee, or against a public agency by reason of the failure of such agency to make payments of principal and interest on a direct loan to such agency, the Secretary shall take into consideration the extent to which:

(a) The facility with respect to which the loan guarantee or direct loan was made will continue to be devoted by the applicant or other owner to use for the purpose for which it was constructed or another public or nonprofit purpose which will promote the purposes of the Act;

(b) There are reasonable assurances that for the remainder of the repayment period of the loan other public or non-profit facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and extent for such purposes; and

(c) Such recovery would seriously curtail the provision of medical services to persons in need of such services in the area.

[37 FR 182, Jan. 6, 1972]

#### § 53.155 Modification of loans.

No official of the Department of Health and Human Services will approve any proposal to modify the terms of a loan guaranteed under title VI of the Public Health Service Act (42 U.S.C. 291 *et seq.*) and this subpart which would permit the use of the guaranteed loan (or the guarantee) as

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collateral for an issue of tax-exempt securities.

[48 FR 42984, Sept. 21, 1983]

#### § 53.156 Fees for modification requests.

(a) Fees will be charged for the processing of requests for parity, and for major and minor modifications of the terms of documents evidencing and securing direct and guaranteed loans. In accordance with the requirements of the User Charge Statute, 31 U.S.C. 9701(b), the Secretary determines the amount of the application fee that must be submitted with each type of modification.

(1) As used in this section, a *request for parity* allows new debt to share lien position (i.e. collateral) with an existing Hill-Burton loan.

(2) As used in this section, a *major modification* is any modification involving the release of \$100,000 or more of collateral; a corporate restructuring that involves a transfer of assets; master indenture requests; modifications to a sinking fund; defeasance requests and requests for additional secured indebtedness; and any, other modification that involves a comparably significant use of Department resources.

(3) As used in this section, a *minor modification* is any modification involving the release of less than \$100,000 of collateral; an easement; and any other modification that involves a comparable use of Department resources.

(b) A request for modification is to be accompanied by a certified check or money order in the amount of the appropriate fee, payable to the U.S. Treasury. The fees for modification requests submitted on or after October 28, 1986 are as follows:

(1) \$1,500 for a minor modification,

(2) \$4,500 for a major modification, and

(3) \$5,500 for a request for parity.

(c) A submitter may withdraw its request for modification within 10 business days following its receipt and receive a refund of the fee.

(d) If the Secretary determines that a change in the amount of a fee is appropriate, the Department will issue a notice of proposed rulemaking in the